

BOIES SCHILLER FLEXNER LLP

Mark C. Mao (CA Bar No. 236165)
mmao@bsfllp.com
44 Montgomery Street, 41st Floor
San Francisco, CA 94104
Telephone: (415) 293 6858
Facsimile: (415) 999 9695
Beko Reblitz-Richardson (CA Bar No.
238027)
brichardson@bsfllp.com
44 Montgomery Street, 41st Floor
San Francisco, CA 94104
Tel: (415) 293 6858
Fax: (415) 999 9695

SUSMAN GODFREY L.L.P.

William Christopher Carmody (pro hac vice)
bcarmody@susmangodfrey.com
Shawn J. Rabin (pro hac vice)
srabin@susmangodfrey.com
1301 Avenue of the Americas, 32nd Floor
New York, NY 10019
Telephone: (212) 336-8330

MORGAN & MORGAN

John A. Yanchunis (pro hac vice)
jyanchunis@forthepeople.com
Ryan J. McGee (pro hac vice)
rmcgee@forthepeople.com
201 N. Franklin Street, 7th Floor
Tampa, FL 33602
Telephone: (813) 223-5505

Counsel for Plaintiffs

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION**

CHASOM BROWN, WILLIAM BYATT,
JEREMY DAVIS, CHRISTOPHER
CASTILLO, and MONIQUE TRUJILLO,
individually and on behalf of all similarly
situated,

Plaintiffs,

v.

GOOGLE LLC,
Defendant.

IBM CORPORATION

Stacey Blaustein
Counsel - Corporate Litigation
1 North Castle Drive
1A-73 MD NC-107
Armonk, NY 10501
Tel. (914)765-4734
Fax. (914)765-2828

*Counsel for Promontory Financial Group, and
The International Business Machine
Corporation*

Case No. 5:20-cv-03664-LHK-SVK

**STIPULATION AND ~~PROPOSED~~
ORDER EXTENDING THIRD PARTY
PROMONTORY FINANCIAL GROUP'S
DEADLINE TO RESPOND TO
SUBPOENA**

Judge: Honorable Susan Van Keulen

Case No. 5:20-cv-03664-LHK-SVK

JOINT STIPULATION AND ~~PROPOSED~~ ORDER TO EXTEND THIRD PARTY PROMONTORY FINANCIAL
GROUP'S DEADLINE TO RESPOND TO SUBPOENA

1 Pursuant to Civil Local Rules 6-2 and 7-12, this joint stipulation is entered into between
 2 Plaintiffs, and Third Party Promontory Financial Group, and The International Business Machine
 3 Corporation (“Promontory/IBM”).

4 WHEREAS, Plaintiffs served a subpoena on each of the non-party auditors, Ernst & Young
 5 (“EY”), Price Waterhouse Co. (“PwC”), and Promontory/IBM (collectively, “Third Parties”). All
 6 responses and objections were received by October 26, 2021;

7 WHEREAS, Google sought a protective order to prevent Third Parties from producing
 8 documents responsive to the subpoenas. The Parties submitted a joint discovery letter brief on
 9 October 28, 2021. (Dkt. 314);

10 WHEREAS, the Court issued an Order Granting in Part and Denying in Part Defendant's
 11 Motion for Protective Order (Dkt. 335) on November 16, 2021 ordering that the Third Parties
 12 respond to Request No. 6 “limited to communications with Google, and any documents referred to
 13 in those communications, from June 1, 2014 to present, relating to Google’s privacy controls
 14 addressed in the 2011 Consent Decree and Google’s conduct in connection with Incognito and any
 15 other private browsing mode”;

16 WHEREAS, on or around October 26, 2021, Promontory/IBM served, by email, its
 17 objections to the subpoena and Stacey Blaustein, counsel for Promontory/IBM wrote, “We will be
 18 circling back about responsive documents shortly after our investigation is concluded.”;

19 WHEREAS, on November 22, 2021, in response to an inquiry from Plaintiffs, Ms. Blaustein
 20 responded that she was still “waiting to hear from one last person as to whether Promontory has any
 21 documents still available on this engagement. None of the employees who worked on the Google
 22 Privacy Assessment are still with Promontory; one went to IBM but he searched and does not have
 23 any responsive documents.” Ms. Blaustein stated that she would know in a few days but expected
 24 the number of documents to be small;

25 WHEREAS, on November 29, 2021, Ms. Blaustein emailed to request an additional ten
 26 days, up to and including December 9, 2021 to respond to the subpoena. The basis for
 27 Promontory/IBM’s request was that, although Ms. Blaustein had initially been informed that
 28 Promontory/IBM had no responsive documents for the reasons previously stated, she just learned

1 that there may be some documents from a non-custodial source but that Ms. Blaustein had not yet
 2 had the opportunity to review the documents. Promontory/IBM needs additional time to complete
 3 the review and, if appropriate, prepare the documents for production;

4 WHEREAS, on November 29, 2021, Plaintiffs submitted a Joint Stipulation and [Proposed]
 5 Order to Extend Third Party Ernst & Young LLP'S Deadline to Respond to Subpoena seeking an
 6 extension of Ernst & Young LLP's response date until December 7, 2021. There have been no other
 7 requests, or extensions or modifications to the Court's November 16, 2021 Order Granting in Part
 8 and Denying in Part Defendant's Motion for Protective Order (Dkt. 335);

9 WHEREAS, Plaintiffs have determined that granting these extensions should not affect other
 10 existing discovery deadlines;

11 NOW THEREFORE, the Parties stipulate that the date for Promontory/IBM to respond to
 12 subpoena pursuant to the November 16, 2021 Order Granting in Part and Denying in Part
 13 Defendant's Motion for Protective Order (Dkt. 335) shall be extended from November 30, 2021 to
 14 December 9, 2021.

15 DATED: November 29, 2021

MORGAN & MORGAN

16 By /s/ Ryan J. McGee

17 Ryan J. McGee

18 *Counsel on behalf of Plaintiffs*

19 DATED: November 29, 2021

20 By /s/ Stacey Blaustein

21 Stacey Blaustein

22 *Counsel on behalf of Promontory Financial*
 23 *Group, and The International Business Machine*
 24 *Corporation*

ATTESTATION OF CONCURRENCE

I am the ECF user whose ID and password are being used to file this Joint Stipulation And [Proposed] Order to Continue Discovery Deadlines. Pursuant to Civil L.R. 5-1(i)(3), I hereby attest that each of the signatories identified above has concurred in the filing of this document

Dated: November 29, 2021

By /s/ Ryan J. McGee

Ryan J. McGee

Counsel on behalf of Plaintiffs

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

CHASOM BROWN, WILLIAM BYATT,
JEREMY DAVIS, CHRISTOPHER
CASTILLO, and MONIQUE TRUJILLO,
individually and on behalf of all similarly
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Plaintiffs,

v.

GOOGLE LLC,
Defendant.

Case No. 5:20-cv-03664-LHK-SVK

~~[PROPOSED]~~ ORDER

Judge: Honorable Susan Van Keulen

Pursuant to stipulation of the Parties, the Court sets the following case schedule:

The date for Promontory Financial Group, and The International Business Machine Corporation to respond to subpoena pursuant to the November 16, 2021 Order Granting In Part And Denying In Part Defendant's Motion For Protective Order (Dkt. 335) shall be extended from November 30, 2021 to December 9, 2021

IT IS SO ORDERED.

DATED: November 30, 2021


Hon. Susan Van Keulen
United States Magistrate Judge